

**BEFORE THE FEDERAL ELECTION COMMISSION**

In the Matter of

Florio for Senate Committee, Inc.,  
George R. Zoffinger, as Treasurer

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**MUR 5263**

**CONCILIATION AGREEMENT**

This matter was initiated by the Federal Election Commission (the "Commission"), pursuant to information ascertained in the normal course of carrying out its supervisory responsibilities. The Commission found reason to believe that the Florio for Senate Committee, Inc. and George R. Zoffinger, as treasurer ("Respondents"), violated 2 U.S.C. § 441a(f).

NOW, THEREFORE, the Commission and the Respondents, having participated in informal methods of conciliation, prior to a finding of probable cause to believe, do hereby agree as follows:

I. The Commission has jurisdiction over the Respondents and the subject matter of this proceeding, and this agreement has the effect of an agreement entered pursuant to 2 U.S.C. § 437g(a)(5)(A)(i) and 11 C.F.R. § 111.18(d).

II. Respondents have had a reasonable opportunity to demonstrate that no action should be taken in this matter.

III. Respondents enter voluntarily into this agreement with the Commission.

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**IV. The pertinent facts in this matter are as follows:**

- 1. James J. Florio was a candidate for the U.S. Senate in New Jersey in the June 6, 2000, Democratic primary election.**
- 2. Florio for Senate Committee, Inc. (the "Committee") is a political committee within the meaning of 2 U.S.C. § 431(4) and is the authorized principal campaign committee for Mr. Florio's 2000 Senatorial campaign.**
- 3. George R. Zoffinger is the treasurer of the Committee.**
- 4. The Federal Election Campaign Act of 1971, as amended ("the Act"), provides that no person may make a contribution to a candidate for federal office, or his authorized political committees, in excess of \$1,000 per election. 2 U.S.C. § 441a(a)(1)(A). The Act also provides that a qualified multicandidate committee and all affiliated committees may not make a contribution to a candidate for federal office, or his authorized political committees, in excess of \$5,000 per election. 2 U.S.C. § 441a(a)(2)(A).**
- 5. The Act defines a "person" as an individual, partnership, committee, association, corporation, labor organization, or any other organization or group of persons. 2 U.S.C. § 431(11).**
- 6. The Act defines "contribution" as any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for federal office. 2 U.S.C. § 431(8)(A).**
- 7. In an election cycle, the Act treats primary and general elections as two separate elections. 2 U.S.C. § 431(1)(A); 11 C.F.R. § 110.1(b)(2).**

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8. The Act makes it unlawful for candidates and political committees to knowingly accept any contribution or make any expenditure in violation of Section 441a. See 2 U.S.C. § 441a(f).
9. The treasurer of a political committee has the responsibility for determining the legality of any contributions received by the committee and for determining the legality of any expenditures made by the committee. 11 C.F.R. §§ 103.3(b)(3); 110.1(b)(3); 110.2(b)(3).
10. While a political committee may accept contributions for the general election prior to the primary election, it must employ an acceptable accounting method to distinguish between primary and general election contributions. 2 U.S.C. § 441a(a)(6); 11 C.F.R. § 102.9(e); FEC AO 1992-15; FEC AO 1980-122; FEC AO 1988-41.
11. Acceptable accounting methods include, but are not limited to: (1) The designation of separate accounts for each election, caucus or convention or (2) The establishment of separate books and records for each election. 11 C.F.R. § 102.9(e).
12. If a candidate is not a candidate in the general election, any contributions made for the general election are per se excessive and shall be refunded to the contributors, redesignated in accordance with 11 C.F.R. §§ 110.1(b)(5) or 110.2(b)(5), or reattributed in accordance with 11 C.F.R. § 110.1(k)(3), within sixty (60) days, as appropriate. 2 U.S.C. § 441a(f); 11 C.F.R. § 102.9(e); FEC AO 1992-15; FEC AO 1980-122.

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**Excessive Contributions – Acceptance of**

13. As of June 6, 2000, Respondents accepted \$369,178.55 in contributions designated for the 2000 general election from three-hundred thirty-seven (337) individuals, fourteen (14) partnerships, one (1) sole proprietorship, (10) qualified multi-candidate political committees, one (1) principle campaign committee, and three (3) non-registered political organizations. See 2 U.S.C. § 431(1)(A); 11 C.F.R. § 110.1(b)(2).
14. Respondents failed to use acceptable accounting methods as required by 11 C.F.R. § 102.9(e).
15. Prior to the primary election, the Committee knowingly and unilaterally redesignated \$369,178.55 in contributions designated for the 2000 general election to the primary election without the authority of the contributors and in excess of the maximum allowable amounts. The Committee then knowingly expended all general election contributions for activities associated with the primary election. These actions made the contributions excessive and in violation of 2 U.S.C. § 441a(a). 2 U.S.C. § 441a(f).

**Excessive Contributions – Failure to Refund**

16. On June 6, 2000, Mr. Florio lost the 2000 Democratic primary election for the U.S. Senate in New Jersey.
17. Since Mr. Florio did not participate in the 2000 general election, the general election contributions became excessive and Respondents were required to refund the contributions to the contributors, redesignate them in accordance with 11 C.F.R. §§ 110.1(b)(5) or 110.2(b)(5), or reattribute the contributions

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in accordance with 11 C.F.R. § 110.1(k)(3), within sixty (60) days of the June 6, 2000, primary election. 2 U.S.C. § 441a(f); 11 C.F.R. § 102.9(e); FEC AO 1983-39; *see also* 11 C.F.R. §§ 110.1(b)(3)(i), 110.2(b)(3), 110.1(e).

18. The Committee, however, knowingly failed to make any refunds, reattributions, or redesignations of these excessive contributions after the primary election.

V. Respondents violated 2 U.S.C. § 441a(f) by accepting \$369,178.55 in excessive contributions. Respondents will cease and desist from violating 2 U.S.C. § 441a(f).

VI. The Commission has determined that the appropriate civil penalty for Respondent's violation is Seventy-Five Thousand Dollars (\$75,000), pursuant to 2 U.S.C. § 437g(a)(5)(A). James J. Florio has negotiated to pay the civil penalty to the Federal Election Commission for Respondent's violation of 2 U.S.C. § 441a(f). Such penalty shall be paid in five (5) installments as follows:

1. An initial payment of Twenty-Five Thousand Dollars (\$25,000) is due no more than thirty days (30) from the date this Agreement becomes effective.
2. Thereafter, four consecutive monthly installments of Twelve-Thousand Five-Hundred Dollars (\$12,500) shall be paid within thirty (30) days of the previous installment.
3. In the event that any installment is not received by the Commission on or before the date it becomes due, the Commission may, at its discretion, accelerate the remaining payments and cause the entire unpaid balance of the civil penalty to become due upon ten (10) days written notice to

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**Respondents. Failure by the Commission to accelerate the payments with regard to any overdue payment(s) shall not be construed as a waiver of any kind.**

**VII. The Commission, on request of anyone filing a complaint under 2 U.S.C. § 437g(a)(1) concerning the matters at issue herein or on its own motion, may review compliance with this agreement. If the Commission believes that this agreement or any requirement thereof has been violated, it may immediately institute a civil action for full relief as it is entitled to under the Act in the United States District Court for the District of Columbia.**

**VIII. This agreement shall become effective as of the date that all parties hereto have executed same and the Commission has approved the entire agreement.**


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IX. This Conciliation Agreement constitutes the entire agreement between the parties the matters raised herein, and no other statement, promise, or agreement, either written or oral, made by either party or by agents of either party that is not contained in this written agreement shall be enforceable.

FOR THE COMMISSION:

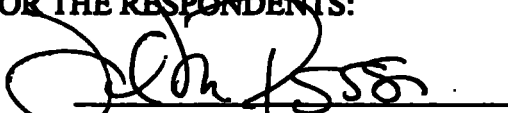
Lawrence H. Norton  
General Counsel

BY:

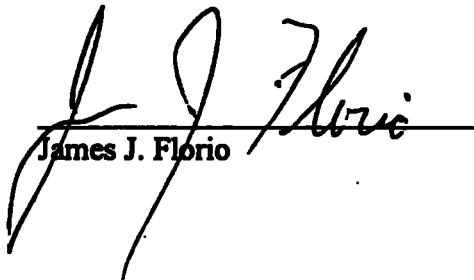
  
Rhonda J. Vosdingh  
Associate General Counsel  
for Enforcement

10/18/02  
Date

FOR THE RESPONDENTS:

  
William Tambussi  
Attorney, Florio for Senate  
Committee, Inc., &  
George R. Zoffinger,  
as treasurer

8-21-02  
Date

  
James J. Florio

8-19-02  
Date

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